

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA**

Robert Martin,)
)
Plaintiff,) Civil Action No. 1:16-1562-RMG
)
vs.)
)
Nancy A. Berryhill, Acting Commissioner) **ORDER**
of Social Security,)
)
Defendant.)
)
)

This matter comes before the Court for judicial review of the final decision of the Commissioner of Social Security denying Plaintiff's application for Disability Insurance Benefits ("DIB"). In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to the United States Magistrate Judge for pretrial handling. The Magistrate Judge issued a Report and Recommendation on January 20, 2017, recommending that the decision of the Commissioner be reversed and remanded to the agency because (1) the ALJ failed to identify and reconcile the conflict between the limitations in the RFC and the DOT's description of the jobs the Vocational Expert identified; (2) the ALJ failed to weigh the opinions of Plaintiff's treating specialist physician in accord with the standards of the Treating Physician Rule, 20 C.F.R. § 404.1527(c); and (3) no fact finder weighed and reconciled new and material evidence from a treating physician submitted for the first time to the Appeals Council. (Dkt. No. 15 at 31-45). The Commissioner has filed a response to the Magistrate Judge's Report and Recommendation indicating that she will file no objections. (Dkt. No. 17).

The Court has reviewed the Report and Recommendation and the record evidence and finds that the Magistrate Judge has ably addressed the factual and legal issues in this matter. Therefore, the Court **ADOPTS** the Report and Recommendation as the order of this Court, **REVERSES** the decision of the Commissioner pursuant to Sentence Four of 42 U.S.C. § 405(g), and **REMANDS** the matter to the Commissioner for further proceedings consistent with this order.

AND IT IS SO ORDERED.



Richard Mark Gergel
United States District Judge

Charleston, South Carolina
February 6, 2017